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Message Text

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INFO OCT-01 ISO-00 /006 R

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DRAFTED BY:AF:W:JKBISHOP
APPROVED BY:AF:W:O. RUDOLPH AGGREY
---------- 100976
R 290103Z SEP 73
FM SECSTATE WASHDC
TO AMEMBASSY LOME
AMEMBASSY COTONOU

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FOLLOWING SENT ACTION SECSTATE WASHDC, USDOC WASHDC SEPTEMBER 26, 1973 FROM NOUAKCHOTT IS REPEATED TO YOU: QUOTE

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EO 11652: NA
TAGS: BPRO EIND MR
SUBJECT: LANG SUGAR REFINERY CONTRACT

REF: STATE 176141

PASS EXIM BANK

SUMMARY: THE TEN MILLION DOLLAR-PLUS LANG SUGAR REFINERY CONTRACT MAY BE COMING APART. LANG PRESIDENT BOB TEMPLE HAS GOTTEN TOUGH ORDERS FROM CHAIRMAN HIS PARENT CORPORATION, INTERNATIONAL SYSTEMS CONTROL (KENNEALLY), TO RENEGOTIATE CONSTRUCTION CONTRACT SIGNED HERE LAST MAY IN ORDER ASSURE GOOD PROFIT MARGIN OR CANCEL THE DEAL OUTRIGHT. THIS MESSAGE GIVES REASONS FOR ISC ACTION AS BEST WE KNOW THEM. THE MAURITANIANS ARE NOT YET FULLY AWARE OF THIS NEW TACK, BUT SOON WILL BE, AND MAY REACT STRONGLY. GIVEN FAVORABLE PUBLICITY GIRM FOCUSSED ON THIS US "FIRST" FOR MAURITANIA, WE ARE CONCERNED ABOUT THESE DEVELOPMENTS WHICH ARE BOUND
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REFLECT ADVERSELY ON US BUSINESS. ACTION REQUESTED: WE

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INTEND GIVE DUTCH UNCLE TREATMENT TO LANG REPS HERE AND
HOPE USDOC, DEPARTMENT AND EXIM WILL BACK OUR PLAY STATESIDE.

1. RECEIVED LAST WEEK TELEX FROM LITD PRESIDENT TEMPLE
INDICATING BOARD CHAIRMAN HIS PARENT COMPANY ISC HAD INSTRUCTED
HIM EITHER CANCEL SUGAR REFINERY CONSTRUCTION CONTRACT
OR NEGOTIATE NEW CONTRACT, INTER ALIA ELIMINATING PENALTIES
FOR FAILURE COMPLETE CONSTRUCTION WITHIN TWO YEARS AND
PUTTING ENTIRE JOB ON COST-PLUS BASIS. IN EVENT CANCELLATION
COMPANY WOULD RETURN GIRM DOWNPAYMENT (OVER ONE MILLION
DOLLARS) MINUS LANG EXPENSES TO DATE.

2. TEMPLE IN SAME TELEX ALSO COMPLAINED OF REPORT THAT GIRM
CONSIDERED LANG "SECOND RATE" OUTFIT AND WAS ABOUT TO HIRE
FORMER COMPETITORS FOR CONSTRUCTION CONTRACT (BELGIANS)
AS REFINERY CONSTRUCTION ENGINEERING CONSULTANTS. FINALLY,
TEMPLE SAID, LANG AT BEST WOULD MAKE ONLY SMALL PROFIT
ON CONTRACT AS CURRENTLY WRITTEN. HE ADDED "WITH THE
ADMINISTRATIVE DELAYS WE FACE WE WILL UNDOUBTEDLY LOSE
MILLIONS."

3. FYI IN SUBSEQUENT DISCUSSION WITH MININDUSTRIAL DEVELOPMENT--
WHOSE OFFICE DIRECTLY INVOLVED WITH LANG CONTRACT--I ASKED
IF HE CONCERNED RE LANG COMPETENCE TO DO JOB. MINISTER
RESPONDED HE MOST SATISFIED WITH THEIR PERFORMANCE TO DATE
AND ADDED HE WOULD NEVER HAVE SIGNED LANG CONTRACT HAD HE
BELIEVED THEM LESS THAN COMPETENT. END FYI.

4. SUBSEQUENT PHONE CONVERSATION WITH TEMPLE AND CONTACTS
WITH OTHER LANG EMPLOYEES REVEAL LONG LINES
PROPOSED
CONTRACT REVISIONS. NOTABLE AMONG THESE ARE A) ELIMINATION
OF PENALTY CLAUSES, B) GUARANTEED CURRENCY CONVERTIBILITY AS
RELATED TO "LOCAL COSTS," C) SIMPLIFIED CUSTOMS CLEARANCE
ARRANGEMENTS, INCLUDING BLANKET TAX EXEMPTION FOR ALL
CONSTRUCTION MATERIALS, AND D) TAX EXEMPTION OR GUARANTEED
GIRM REIMBURSEMENT ANY LOCAL TAX COSTS TO LANG.
(COMMENT: QUESTION THAT CURRENCY CONVERTABILITY IS REAL
PROBLEM, AND THOUGH IT IS NOT SPECIFICALLY MENTIONED IN
CURRENT CONTRACT, BELIEVE GIRM WOULD OFFER NECESSARY SEPARATE
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SPECIFIC GUARANTEES.)

5. ABOVE IS GIST OF MESSAGE LANG REP WILL CONVEY TO GIRM
DURING PLANNED VISIT HERE NEXT WEEK. LANG PRESIDENT TEMPLE
WILL FOLLOW-UP WITH PERSONAL VISIT OCTOBER 21-22 ONCE GIRM
HAS OPPORTUNITY DIGEST IT. SHOULD LITD DECIDE TO PULL OUT
OF THE DEAL AS NOW WRITTEN, WE WOULD EXPECT GIRM CALL FOR
ARBITRATION. AT SUCH JUNCTURE EMBASSY MAY REQUEST USDOC/EXIM

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FIND ANOTHER US FIRM WILLING TACKLE REFINERY CONSTRUCTION
IN LANG'S PLACE.

6. COMMENT: WHILE LANG IS NOT SAYING SO, IT SEEMS OBVIOUS
TO US THAT THEY TOOK SOME CALCULATED RISKS IN INITIAL CONTRACT
NEGOTIATIONS WHICH HAVE NOT YET PAID OFF. SPECIFICALLY,
LANG SIGNED A CONSTRUCTION CONTRACT ALLOWING IT ALMOST NO
PROFIT IN EXPECTATION PROMPTING QUICK GIRM AGREEMENT ON
MANAGEMENT CONTRACT, WHICH LANG HAD DESIGNED TO GUARANTEE
PROFITS BIG ENOUGH TO COMPENSATE FOR BREAK-EVEN CONSTRUCTION
DEAL. THIS HAS NOT COME TO PASS. LANG AND GIRM HAVE BEEN
NEGOTIATING MANAGEMENT CONTRACT OFF AND ON FOR NEARLY FOUR
MONTHS AND NEITHER SIDE IS GIVING AN INCH. MINISTER
INDUSTRIALIZATION HAS INFORMED US HE INCLINED FAVOR LANG
GETTING MANAGEMENT CONTRACT, BUT IS NOT PREPARED NEGOTIATE
"UNDER GUN," I.E. WITH SINGLE BIDDER. HE HAS SOUGHT BID FROM
EUROPEAN FIRM FOR PURPOSES COMPARISON WHICH HE EXPECTS RECEIVE
BY END SEPTEMBER. HOWEVER, AS REASSURANCE TO LANG, MINISTER
POINTED OUT TO ME THAT CURRENT OPINION IN GIRM FAVORS EXPANDING
CONTACTS WITH US PRIVATE SECTOR. WE HAVE INFORMED TEMPLE OF
THIS. WE RECOGNIZE MANAGEMENT CONTRACT NEGOTIATIONS HAVE BEEN
DRAGGED OUT AND LANG UNDERSTANDABLY NERVOUS THAT IT MAY
NOT WIN CONTRACT. ASSUME IT IS BASICALLY THIS IMPASSE
WHICH HAS BROUGHT TEMPLE UNDER KENNEALLY'S GUN AT ISC.

7. ACTION REQUESTED. EXIM, USDOC AND DEPARTMENT
CONSULT AND DECIDE ON WHICH WILL INTERVENE
IN THIS MATTER TO EXPLAIN TO LANG-ISC A) GIRM FAVORABLE VIEW
OF LANG BOTH AS CONTRACTOR AND POSSIBLE MANAGER OF REFINERY,
B) NEED FOR PATIENCE IN DEALING WITH GOVT WHOSE ADMINISTRATIVE
BOTTLENECKS KNOWN TO LANG WHEN IT SIGNED ON LAST MAY,
AND C) OUR CONCERN THAT IMAGE US BUSINESS WILL BE GRAVELY
AFFECTED IF LANG NOW TEARS UP CONTRACT. WE WILL USE SPMILAR
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DUTCH UNCLE APPROACH WITH LANG REPS HERE. WE WILL ALSO
CONTINUE TO ACT AS CONDUIT BETWEEN LANG AND GIRM, BUT AS
ALWAYS REFRAIN FROM DIRECT INVOLVEMENT IN NEGOTIATIONS.

DECON 6/30/74.
MURPHY UNQUOTE KISSINGER

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